

MINEBEA CO., LTD., et al.,
Plaintiffs,

v.

GEORG PAPST, et al.,
Defendants.

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) Civil Action No. 97-0590 (PLF)
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The Court has long believed that it would be in the best interests of the parties to resolve this long-standing, and sometimes acrimonious dispute at the negotiating table rather than in a courtroom. The Court has expressed its view to counsel that it would be in the best interests of the parties to settle this case before there is a judicial ruling that might direct the disclosure of assertedly privileged materials, before any parties, witnesses or lawyers are sanctioned, and well in advance of trial preparation and trial.

By Order of December 10, 2003, this Court informed the parties of its intention to order the principals and their lawyers to engage in mediation. The Court provided the parties with a suggested list of mediators for counsel to consider and discuss with their clients. At a status conference on December 16, 2003, mediation was further discussed. It was agreed that each side could add no more than three names to the list provided by the Court in its Order of December 10, 2003. The Court ordered the parties either to agree on a mediator from this list and inform the Court in writing of who the mediator would be by January 16, 2004, or, if they

could not agree, each party would submit in writing to the Court two names of mediators from the list who would be available to conduct the mediation and who had no conflicts with either party. The Court would then select a mediator from these four candidates.

The parties were not able to agree on a mediator. By separate letters of January 16, 2004, each side submitted the names of two candidates to serve as mediator. The Court understands that each of these four candidates (a) is available to devote the time necessary to mediate this matter; (b) has no conflicts with either party; and (c) has proposed a financial arrangement for his services that is acceptable to the parties. The Court has interviewed all four mediator candidates, two in person and two by telephone. While each has the requisite qualifications to serve as mediator, the Court has decided to appoint United States District Court Judge (Retired) Charles A. Legge to mediate and resolve this case. Accordingly, it is hereby ORDERED that:

1. The Honorable Charles A. Legge, Two Embarcadero Center, Suite 1100, San Francisco, California 94111; telephone: 415-774-2644; fax: 415-982-5287, is appointed as the mediator in this case.
2. The fees of the mediator and his costs shall be borne equally by the parties.
3. The parties are directed to meet promptly with Judge Legge to devise a schedule for the presentation and review of written submissions and the prompt scheduling of mediation sessions. After consultation with the attorneys, the mediator is authorized to set the schedule. Counsel and their

clients are directed to cooperate with the mediation process and to assist the mediator and each other in a good faith effort to dispose of this case without trial.

4. Counsel for both sides have represented to the Court that all issues are on the table for discussion and resolution. The Court understands this to include all claims asserted at any time by any party in this action, as well as all claims that any party may have against another party, or another party's customers, suppliers, licensees, licensors or partners, so that, if possible, a truly global settlement can be achieved.
5. The parties are directed to make themselves and their principals with settlement authority available promptly in the United States and on an ongoing basis as requested by Judge Legge.
6. Principals from each party with settlement authority are required to attend each mediation session or any other conference, meeting or discussion scheduled by the mediator.
7. The mediator may hold separate, private caucuses with each side or each lawyer or each client. If the mediator wishes to meet with the principals outside of the presence of their attorneys, the mediator is authorized to do so.
8. If in the mediator's judgment it is necessary to engage neutral interpreters, not aligned with any party, to facilitate mediation, he may do so and the parties shall equally bear the costs of such interpreters.

9. The mediator shall report periodically to the Court and/or to the Special Master concerning the progress of mediation and the cooperativeness of the parties; absent contrary order, the reports shall not disclose the positions of the parties regarding any of the matters at issue nor disclose the substance of written or oral submissions to the mediator on substantive matters.
10. Counsel and the parties are likewise prohibited from disclosing any written or oral information or communications made or disclosed in connection with or during any mediation session. All such information and communications are protected by the privileges and confidentiality of settlement negotiations.
11. Discovery and motions practice before the Court and the Special Master will not be stayed during the pendency of this mediation, but will proceed as previously scheduled.
12. The parties are reminded that the Court intends to try at least the liability phase of this case, beginning on or about December 2004, absent the execution prior to that date of a definitive settlement agreement.
13. The mediator is performing a quasi-judicial function and shall be entitled to absolute quasi-judicial immunity for acts performed within the scope of his official duty.

14. The Court reserves the power to take such further steps as may appear to be desirable.

SO ORDERED.

DATE:

PAUL L. FRIEDMAN
United States District Judge